

## Cyber Law and Practice of Freedom of Speech on Internet: Pakistan Perspective

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### Abstract

The study was conducted with the aim of exploring the prevailing cyber law, better called as, Prevention of Electronic Crimes Act -2016 (PECA-2016) with regard to practice of freedom of speech on internet in Pakistan. Having discussed in brief the regime for freedom of speech under constitution of Pakistan 1973 and International Covenant on Civil and Political Rights (ICCPR), to which Pakistan is a party, so obliged legally and morally to obey it. A mix method, where exploratory sequential approach was employed to analyse the issue of violation of freedom of speech on technology by the application of stringent provisions of PECA-2016 by government authorities in Pakistan. Thematic analysis of interviews were done through NVivo and quantitative data was analyzed by using SPSS. Results highlighted that the prevailing cyber technology law in Pakistan is in clear contradiction with the regime for freedom of speech in Pakistan's constitution and ICCPR. The study expressed that certain provisions of PECA-2016 are stringent and suppressed the voices of internet users. Nevertheless, it also appeals to the policy makers to repeal or amend the prevailing law of technology ok and to make it in conformity with the legal regime for freedom of speech in Pakistan.

**Keywords:** Cyber law; Freedom of speech; ICCPR; Legal regime; Pakistan's constitution and PECA-2016.



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### 1. Introduction

Cyber law is a piece of legislation dealing with the governance of activities related to computer and technology (Eboibi, 2017). Since the emergence and development of technology, most of the world countries have enacted the cyber legislation and are in constant struggle to update it with exigencies of time (Lunker, 2001). In most countries, cyber legislation becomes a tool of criticism due to its strict nature which in return, has an impact on online freedom of speech (Kundi *et al.*, 2014). For instance, Nigerian cyber law received wide criticism in terms of human rights violation, likewise the foreign surveillance act in US and UK not only result in protest but compelled the governments to decline the objectionable provisions undermining human rights (Roark, 2017).

Nonetheless, the study conducted by ICANN (Internet corporation for Assigned Names and Numbers) showed that position of Pakistan is below standards in terms of its cyber preparedness (Shahid and Sumbul, 2017). Pakistan, due to the unprecedented reliance on technology, existence of internal and external threat to cyber space and due to the exigencies of time, adopted a cyber law better called as "Prevention of Electronic Crimes Act. PECA-2016 is a new addition to penal laws of Pakistan covering both substantive and procedural aspect (Alavi, 2017). Prevention of Electronic Crimes Act 2016, enacted to control the nefarious activities performed on computer technology, has got severe criticism regarding freedom of speech on internet from civil societies, human rights organizations and political parties due to non-compliance with article 19 of Pakistan's constitution and International Covenant on Civil and Political rights (hereinafter ICCPR), an international human rights law signed and ratified by Pakistan in 2010 (Awan and Memon, 2016). Certain provisions of PECA-2016 affect the practice of freedom of speech/expression on technology. According to ARTICLE-19<sup>1</sup> and Pakistan digital rights foundation<sup>2</sup>, the broad definition of some sections of PECA-2016 can be misused by the government authorities for the prosecution of any internet users (Baloch, 2016). The language of certain sections is so broad that it leaves everything at the discretion of authority, Pakistan Telecommunication Authority (hereinafter PTA). The former UN Special rapporteur on Freedom of speech Frank LaRue has stated that word "glorification" used in section 9 of PECA-2016, fails to meet international standards of freedom of speech (Abraham, 2018). Also section 9 can be brought in motion to arrest legal experts while debating on the merits of a case or discussing about legality of allegations booked against a client. Number of arrests have been made under the provisions of PECA-2016 on posting comments on social media criticizing the activities of governments. Likewise, Article19.org, is an international human rights organization, had been blocked on a certain ISP in Pakistan, ironically. PTA did it under PECA-2016 without giving any justifications, rose couple of questions on the misuse of PECA-2016 (Aceto *et al.*, 2016). In addition, section 37<sup>3</sup> empowers the Pakistan Telecommunication Authority arbitrarily for the removal and blockage of online content.

<sup>1</sup> ARTICLE 19 is an international NGO which works for the freedom of speech on global scale.

<sup>2</sup> Digital rights foundation is a research based advocacy NGO working for human rights and online freedom of speech

<sup>3</sup> Section 37 PECA-2016 Act.

The irony is that the senate of Pakistan recommended some 50 amendments to PECA-2016 but all these changes declined by the National assembly and finally enacted the controversial PECA-2016. However, also the senate allowed the human rights organizations and civil societies to object on the controversial provisions of PECA-2016 which are in contradiction to freedom of speech but many of their suggestions were not considered. According to Malik (2018) ECA-2016 is “one of the world’s worst cybercrime law”, as it criminalizes the freedom of speech on social media and giving largely unsupervised censorship and surveillance power to Pakistani authority. Among other concerns, PECA-2016 is considered one of the question mark on freedom of speech/expression on internet in Pakistan.

Nevertheless, in the backdrop of all these concerns it is imperative to explore and investigate the status of right of free speech in the presence of PECA-2016 in Pakistan. Hence this article tends to explore the prevailing regime for freedom of speech in Pakistan and then address the impact of certain provisions of cyber or technology law, PECA-2016, on freedom of speech in Pakistan. To address the issue, a mix method approach has been used by the researcher. At first place, interviews were conducted from legal experts to explore the issue and subsequently a survey questionnaire was distributed to bring forth the reality of issue.

### 1.1. Freedom of Free Speech in Pakistan

Freedom of speech both online and offline is the constitutional right of every person in Pakistan guaranteed under article 19<sup>4</sup> of Pakistan’s constitution. Constitution-1973 is the supreme law of the land promulgated on 14 August 1973 which among others, gives constitutional guarantee to freedom of speech under article 19 (Christensen, 2017). As revealed by Raj and Chowdhury (2017), freedom of expression both online and offline is also a global and internationally recognized right under article 19<sup>5</sup> of ICCPR and ECHR (European Convention for Human Rights). ICCPR is an international human instrument which has been ratified by Pakistan on June 23, 2010 binding Pakistan for complying with its principles (Hayee, 2012). According to Shepherd (2017), ICCPR sets minimum international standards mainly for the protection of freedom of speech and also establishes the criteria for restricting freedom of speech in form of tripartite test (legality, legitimacy and proportionality) under article 19(3). Likewise ECHR also describes a standard for the regulation of free speech and the plausible and reasonable restrictions for free speech. Plethora of issues are associated with PECA-2016 but the issue of free speech violation on internet due to the provisions of PECA-2016 has got unmatched voice. In addition, there is issue of ambiguous definitions, provisions without explanations and safeguards which can be easily exploited for political and personal interest. For instance the definition of an “information system”<sup>6</sup> and “information”<sup>7</sup>, is very broad and anything can be termed as information system, so adding to the element of ambiguity (Shaukat *et al.*, 2017). The broad and perplexed language of definitions inside the act leads to selective and impartial enforcement which has direct impact on freedom of speech and others rights (Reed, 2018). Likewise section 3<sup>8</sup>, section 4<sup>9</sup>, section 11<sup>10</sup>, section 37<sup>11</sup> are inconsistent to article 19 under constitution of Pakistan and ICCPR (Iqbal and Iqbal, 2017). In addition, ICCPR embodies tripartite test<sup>12</sup> which should be embodied in any law of Pakistan, as this test has well settled principles that vividly indicates the grounds for the restriction of freedom of speech in some circumstances but during the enactment of PECA, no heed had been paid to the golden rule of tripartite test (Ginsberg, 2017).

## 2 Literature Review

The current study is about the exploration and identification of issues associated with provisions of newly enacted cyber legislation, “prevention of electronic crimes act (PECA-2016)” with regard to free speech as guaranteed in article 19 of Pakistan’s constitution and international covenant on civil and political rights (ICCPR).

PECA-2016 is a piece of cyber legislation promulgated on 11<sup>th</sup> August, 2016; dealing with cyber space activities (Khan, 2017). The PECA-2016 enlisted number of cybercrimes but rather to combat cybercrime the act presses the online voices in the name of combating cybercrime (Ur Rehman and Iqbal, 2017). The act drastically fails to accommodate the proper safeguards for online free speech and hence makes it one of the controversial and flawed piece of legislation (Hafeez, 2018). The PECA-2016 declined the concerns of civil society and human rights organizations prior promulgation and criminalizes online journalism for favoring illegal acts of government authorities. Arif and Sarfraz (2019) speculates that most of provisions have over broad definitions like cyber terrorism and hate speech where hate is open to interpretation and can be misused by authority for personal or political grudges. However, it is imperative to identify all those provisions and to examine its relation with freedom of speech whether it promotes or hinder the freedom of speech.

<sup>4</sup> Section 19 of Pakistan’s constitution 1973.

<sup>5</sup> Section 19 of ICCPR (International Covenant on Civil and Political rights)

<sup>6</sup> "Information system" means an electronic system for creating, generating, sending, receiving, storing, reproducing, displaying, recording or processing any information,

<sup>7</sup> "Information" includes text, message, data, voice, sound, database, video, signals, software, computer programs, any forms of intelligence as defined under the Pakistan Telecommunication (Reorganization) Act, 1996 (xv[ of 1996) and codes including object code and source code

<sup>8</sup> Section 3 of PECA-2016

<sup>9</sup> Section 4 of PECA-2016

<sup>10</sup> Section 11 OF PECA-2016

<sup>11</sup> Section 37 of PECA-2016

<sup>12</sup> Article 19 of ICCPR

PECA-2016 has empowered PTA (Pakistan Telecommunication Authority) without judicial oversight while report of Tribune argues that absence of judicial oversight is tantamount to abrogation or avoiding due care of human rights including free speech (Zuberi). According to Kugelman (2018), during the enactment of PECA-2016 open consultation was absent with the stake holders and government had adopted a very narrow approach and was in rush to pass the act, even the treasury benches has ignored the amendments of senate as senate had made 52 amendments prior passing the cyber act (Kugelman, 2018). Likewise the United Nations' Special Rapporteur on freedom of opinion and expression has also criticized the act and released a statement claims that the act is a tool of censorship of, and self-censorship by, the media and other segments of society<sup>13</sup>.

It has been highlighted that the issue of broad definitions have made PECA-2016 more controversial. The definitions at clause 2 of PECA-2016 is overly broad, For instance, "act" is defined in clause 2 as a "series of acts or omissions contrary to the provisions of this Act". First, 'act' is defined by reference to a 'series of act' without ever defining what an 'act' means. This vagueness has impact upon freedom of human rights (Hassan *et al.*, 2018) (Khan, 2017) reiterates and emphasized that parliament and government should introduce the protection mechanism for the rights of citizens after promulgation of PECA-2016 as the prevailing has been passed in rush and lack clear vision and clear mechanism for the protection of freedom of speech on internet. However, this piece of treatise tends to explore and identify all those provisions of PECA which has more or less but have some impact on freedom of online free speech and examine that how much the provisions of PECA-2016 are far below standards than the ones mentioned in ICCPR.

Rasool (2015) argued that clause 37 of the act grants unchecked powers to PTA (Pakistan Telecommunication Authority) for blocking or removal of any online content. This provision of PECA-2016 has vehemently affects the practice of free speech in Pakistan and is also in contradiction to the prevailing regime for freedom of speech in Pakistan. In other words, this section grants arbitrary and exclusive powers to governmental officials to restrict access to any information on the internet and this clause has devastating effect on media house and opposition parties as they can not criticize the acts of government (Munir and Gondal, 2017). However under PECA-2016 mere criticism against government is enough for bringing provisions of PECA-2016 in motion as evidenced in case of disappearance of bloggers<sup>14</sup>, Achakzai arrest case<sup>15</sup> and shut down of ARTICLE 19.org website (Ahmad and Mehmood, 2017).

According to the opinion of Human rights watch, PECA constitutes "straightforward and clear attack on human rights including freedom of speech and expression. While one of the leading voice in cyber jurisprudence Zahid Jamil took a very alarming stand on PECA-2016 and termed it one of the worst piece of cybercrime legislation in the world. The act is tantamount to handicap the right of freedom of speech rather than to promote it, as guaranteed in Pakistan's constitution and ICCPR. PECA-2016 empowers the authority to arrest without court orders on mere criticism against the governmental institutions which is against the fair-play practice in justice system. However, there is no justification or established yardstick that which acts or omission of common masses will be considered against army or nationality of the country. He further added that main objective of PECA-2016 is to restrict the freedom of speech, access to any communication system including online peaceful assemblies and online associations. PECA-2016 embodies certain provision carrying ambiguous language which made it very easy for the official authority to misuse it and use it for political and personal revenges. For instance, section 37 of PECA-2016 is overly broad and grants the government institutions like PTA excessive powers for the removal and blocking of any sort of content which has an impact on free speech and access to knowledge in the 21<sup>st</sup> century. The irony comes when all these acts can be taken without the approval from a court. This implies that unlike civilized countries the element of judicial oversight is absent in case of Pakistan (Wagner, 2018). Couple of opposition parties challenged cyber law in Lahore's High Court and they argued that the new PECA-2016 is unconstitutional as evidenced by sections 3, 4,9,11 and 37, all these sections are inconsistent with the basic norms of fundamental rights guaranteed under Pakistan's constitution and ICCPR and provisions of PECA-2016 could be used for political purposes.

### 3. Methodology

#### 3.1. Research Design

The researcher has used a mixed method approach to address the problem. The sequential exploratory design has been employed (Creswell and Creswell, 2017). The design was implemented in two consecutive phases, the first, qualitative phase involved the exploration of certain provisions of PECA-2016 to get an in depth analysis with regard to freedom of speech on internet. The second phase is quantitative which consisted of questionnaires which investigated impact of certain provisions of PECA-2016 on freedom of speech in Pakistan.

<sup>13</sup> "UN expert urges Pakistan to ensure protection of freedom of expression in draft Cybercrime Bill", Statement of the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression David Kaye, United Nations Office of The High Commissioner for Human Rights, December 14, 2016 <http://bit.ly/1TRCaz2>

<sup>14</sup> Five bloggers and activists had [disappeared](#) in [Pakistan](#). They were preacher of freedom of speech and had spoken about religious extremism and had criticised merely against some government institutions.

<sup>15</sup> Zafarullah achakzai is a Pakistan journalist who was arrested under PECA-2016 on June 30, 2017. It was claimed that the journalist had criticized the government on poor security issues on social media after suicide attack on social media.

### 3.1.1. Qualitative Phase

The qualitative phase further consists of two phases. At first phase a thorough document analysis has been conducted to get the gist of prevailing regime for free speech in Pakistan. Document analysis refers to the systematic process to review and evaluate both printed and online materials. This method is more or less similar to other analytical methods used in qualitative research. In this approach the core meaning or idea of document is extracted through careful examination and interpreted to support a claim (Corbin and Strauss, 2008; Merriam and Tisdell, 2015). This research has analyzed several documents which includes Pakistan's constitution and ICCPR and related articles in reference to free speech.

At second phase, face to face interviews were conducted from pools of lawyers, judges, legal academicians and anchors in capital city of Islamabad, Pakistan. The participants were selected through purposeful sampling. The participants were provided with semi structured interviews. The interview of each participant was recorded with a digital recorder which was transcribed later. All necessary measures were taken to protect anonymity and were clarified with the participants. Final analysis was ascertained through thematic analysis.

### 3.1.2. Quantitative Phase

The target population for the current study was the persons well versed in legal knowledge. Such participants were taken from pools of lawyers, judges, legal academicians and anchors working at capital city, Islamabad, Pakistan. The researcher has used the purposeful sample technique for the selection of participants. Measures were prepared from the previous studies and amended according to requirement (according to themes ascertained through interviews). The questionnaires were adapted from freedom on internet questionnaire used by Vásquez and Porčnik (2015) and censorship laws questionnaire used by Freedom House, 2016.

A total of 400 questionnaires were distributed and 230 were received, where 29 was found incomplete, hence discarded them. So, 201 was considered fit for analysis. Finally, a statistical software, better called as SPSS was used for the analysis of gathered data via survey questionnaire.

The 5 Likert scale was used by the researcher for the adapted questionnaire to gather data from the participants. Before conducting final survey the questionnaire was tested through pilot study to test the validity and reliability of the instruments and proved it as reliable and valid.

## 4. Analysis, Findings and Results

### 4.1. Qualitative Analysis

Interviews of participants were transcribed and whole data sets were analysed. Themes were identified in a predominantly deductive manner and were identified at a semantic level (Braun and Clarke, 2006). The significance of a theme was not only dependent on prevalence within the data but also on the “Keynes” of a theme in relation to the key research questions.

The questions in table 4.1 represent interview questions adapted from past studies, have been asked from interviewers for exploring the impact of certain provisions of PECA-2016 on freedom of speech. The interviewers were selected through purposeful sampling from capital city of Pakistan, Islamabad. Table 4.1 shows the adapted interview questions.

Table-4.1. Interview Questions

Questions	Source
Does PECA-2016 embody rules for upholding human rights online?	Freedom House, 2016
Is PECA-2016 promoting or hindering free speech online?	
Is PECA-2016 embodies poor practices for free speech?	-
Is PECA-2016 a clear law or vaguely worded law? Elaborate	-
Does PECA-2016 promotes censorship?	Dad, 2015
Does PECA-2016 give unchecked power to authorities?	-
Online content removal article (37) violates constitution and ICCPR. If yes. Explain?	-

The analysis of raw data was based on coding schemes deduced from the interview. Based on the objective of the study, nature of provisions were divided into three themes; censorship nature of certain provisions of PECA-2016 (hereinafter CCPP), Provisions of arbitrary powers (hereinafter PAP) and Effect on free speech (hereinafter EFS) in Pakistan. The purpose of this thematic analysis is to find out the relation of nature of certain provisions of PECA-2016 to free speech practice on internet in Pakistan. The table 4.2 represents the final themes of this study. Where the censorship nature of certain provisions depict that certain provisions of PECA-2016 are vaguely enacted with intention to give excessive power to the authority and agency to rein the border less cyber space while ignoring the concerns for human rights and in particular the freedom of speech on internet in Pakistan which supports the previous results but the previous studies have highlighted the offline aspect while this study exposed that also the online freedom of speech is also on stake. While the effect on free speech shows that certain provisions are enacted with special purpose to handicap the right of freedom of speech in Pakistan. Such provisions of PECA-2016 has devastating impact on online free speech. It has an inverse relation to that of free speech. This implies that the strict and censorship nature of PECA-2016 has increased the free speech violation



## 4.2. Themes

Themes represent the most highlighted area mentioned by participants. During thematic analysis, before drawing final themes, codes are deducted and then from those codes secondary themes are drawn to make the final theme.

**Table-4.2.** Themes

Codes	Themes	Final themes
Vaguely enactment of PECA-2016 provisions PECA-2016 provision criminalizes free speech PECA-2016 creates fear in internet user Internet censorship exacerbates with PECA-2016 PECA-2016 forces to delete certain content PECA-2016 blocks and filter content PECA-2016 imposes legal liability PECA-2016 imposes big penalties PECA-2016 source of unofficial censorship PECA-2016 provides for state surveillance	Over broad PECA-2016 provisions PECA-2016 sensitizes internet legally PECA-2016 provides for blockage of content	Censorship nature of certain PECA-2016 provisions
PECA-2016 empowers PTA PECA-2016 arbitrarily empowers FIA PECA-2016 as a tool of exploitation in Govt. hands	Empowering arbitrarily Misuse by authority	Provisions of arbitrary powers
Free speech under threat Suffering of human rights organizations Disseminate self-censorship Suffering of bloggers on social media Arrest of several journalists	Great impact on free speech Internet users and bloggers fear of speaking on social media	Effect on free speech

### 4.2.1. Censorship Nature of Certain Provisions of PECA-2016

The censorship nature of certain provisions of PECA have been identified through several questions asked from the interviewee which shows that enactment of PECA has threatened the civil society and human rights organization from expression against government acts. The table 4.2.1 shows the responses of the interviewee about the censorship nature of PECA provisions and its impact on free speech. Only few participant said that they don't know about the effect of provisions while majority of the rest expressly said that since the enactment of PECA-2016, various bloggers and journalist have quit their jobs. They termed the PECA provisions a black law for the country. The government is using it according to their wish. One of the participant termed that any content which criticizes the acts of army and political elites in treasury benches become a subject of controversy and blocked after publication. This is considered a sever attack on the right of freedom of expression and at same the right to receive information. Most of the participants from law students termed that even they can't reach to certain website for downloading for research purposes from the government websites of the country. This depicts that strict nature of provisions of PECA has impact on free speech. The provisions of PECA-2016 has significantly reduced the operation of right to information and freedom of expression.

**Table-4.2.1.** Interviews responses for censorship nature of certain provisions of PECA-2016

Construct	Interviewee (Lawyer)	Interviewee (Academician)
Similar responses	<p>“I believe that PECA provisions are ambiguous and it has made the law weak”.</p> <p>“Most of the PECA provision criminalize online free speech”</p> <p>“Since enactment of PECA, a new wave of censorship has created”</p>	<p>“PECA provisions are open to interpretation”</p> <p>PECA has made it legal to block any website or page without probable justifications”</p> <p>“After the birth of PECA, internet users observe self-censorship”</p>
Different response	<p>“PECA is ineffective and will have but not too much effect on free speech”</p> <p>PECA is a tool in hand of PTA but circumstances of country enacted it”</p>	<p>“PECA is there but still people are targeting each other on social media”</p> <p>“PECA has affected free speech but on other hand side it is the need of time, so amendments can be made in it”</p>

### 4.2.2. Provisions of Arbitrary Powers

Couple of questions were asked about those provisions which empowers the authority of Pakistan with regard to regulation of online content. The questions asked in below table shows that most of the respondents answered in yes

when asked about that PECA has multiplied the power of authority named as Pakistan Telecom Authority. Law flows from wish of PTA according to section 37 of PECA. What PTA considers legal, will be legal and what PTA considers illegal, will be illegal. Here, it comes fit that power corrupts and absolute power corrupts absolutely. The same is true in case of PTA and all this made because of the enactment of PECA. Majority of the respondents were of the view that, Pakistan has passed its most controversial law PECA in August 2016 which has got universal condemnation from inside and outside. People from civil society and technological domains have termed the law more censored and handicapping right to freedom and privacy embodied in the supreme law of the land. The law has provisions regarding cyber terrorism which is too vague and ambiguous and can be exploited by authority. Personal data collated can be collected by authority without warrant and can be handed to foreign authorities without any oversight. Poorly written cyber law criminalizing the day to day activities which are harmless.

**Table-4.2.2.** Interviews responses for provisions of arbitrary powers of PECA-2016

Construct	Interviewee (Law officer)	Interviewee (Journalist)
Similar responses	<ul style="list-style-type: none"> <li>➤ “PECA has given unbridled power to FIA and PATA”</li> <li>➤ PTA can remove any content from any web or page without legal justifications”</li> <li>➤ “PECA has granted discretionary power to PTA”</li> </ul>	<ul style="list-style-type: none"> <li>✓ “PECA, instead of securing free speech and cybercrimes, are ruining both.”</li> <li>✓ PECA not only hinders free speech but also imposes legal liability in several cases”</li> <li>✓ Under PECA bloggers are running from their blogs.</li> </ul>
Different responses	<ul style="list-style-type: none"> <li>● PECA is good if executed with caution and balance</li> <li>● PECA is unable to cope with cyber crimes</li> </ul>	<ul style="list-style-type: none"> <li>✧ Free speech is not absolute and PECA should incorporate for the balance.</li> <li>✧ PECA is neither good nor bad</li> </ul>

#### 4.2.3. Effect on Free Speech

The main motto of this objective is to investigate the impact on free speech because PECA provisions favouring political and serving elite of the country. One of the respondents said that keeping the structure and theme of PECA it can be said that it is the “worst written legislation regarding cybercrimes” and Pakistan has crossed its limits under international law and constitution. This is another tyrannical piece or set of laws of Pakistan over internet and its own citizens. Most of the respondents termed it handicapping and zipping of mouth of nationals and free speech advocates present in every corner of the country. In a reply one of the interviewees replied that enacting the PECA, the stakeholder has not taken in confidence and the political party can misuse it against the opposition as its language is too ambiguous and vague, defective and will be misused. Hence PECA provision has created a sense of fear in social media activists and common masses. Which has increased significantly the violation of free speech.

**Table-4.2.3.** Interviews responses for effect on free speech of PECA-2016

Construct	Interviewee	Interviewee
Similar responses	<ul style="list-style-type: none"> <li>■ Free speech is under severe threat under because PECA is very severe for online speech”</li> <li>■ Every journalist experiences self-censorship because of this new law, PECA</li> <li>■ Criticizing governments acts can put you in jail</li> <li>■ Provisions of PECA is direct attack on free speech</li> </ul>	<ul style="list-style-type: none"> <li>● “There is lack of safeguards in various PECA provisions which has affected free speech”</li> <li>● “Section 3 is so vague that it can be applied on every person using internet”</li> <li>● “who will define hate speech, no express criteria, everything at the discretion of government”</li> <li>● “In this information age such a draconian law is not acceptable for the sake of free speech”</li> </ul>

### 4.3. Quantitative Analysis

#### 4.3.1. Measurement of Construct

This section specifies the domain of constructs with exact meaning and measurement. Measurement items in this study are adapted from previous research studies. However modifications are done to update the items according to the research context. The following subsections discuss the measurement of constructs; censorship nature of certain provisions of PECA, Provisions of arbitrary powers and Effect on free speech. All these will be analysed for the better understanding that how certain provisions of PECA affects free speech on internet in Pakistan.

##### 4.3.1.1. Censorship Nature of Certain Provisions of PECA

Sometimes the legislature enacts stringent laws in order to achieve specific goals. Provisions become strict when it has vague and open ended concepts. Furthermore, it provides for censorship and provides for the deletion of most of the content undesirable to government and political elite. Such laws attract more criticism from human rights

organization and civil societies. For instance the Nigerian cyber legislation and UK cyber law was not only protested but declined as well (Udeogu *et al.*, 2017). The researcher has adapted the survey questionnaire from past studies with respect to censorship nature of certain provisions of PECA which has got different responses.

#### 4.3.1.2. Provisions of Arbitrary Powers

Most of the enacted legislation keep balance between empowering the agents of governments and acts or omissions of common citizen. The enactment which empowers agents of government has observed greater impact in relation human rights violation as power corrupts and absolute power corrupts absolutely. Likewise the adapted questionnaire was used to get the responses of participants with respect to provisions of PECA which empowers the authority arbitrarily.

#### 4.3.1.3. Effect on Free Speech

Free speech is the constitutional and International human right. This right should not be under threat through any means. The means which are hampering with free speech right should always be termed inhuman and defective in nature. Likewise in the specific case it will be assessed that how provisions of PECA affects free speech in Pakistan. Nevertheless, an adapted survey questionnaire was distributed among participants to get responses that whether with enactment of PECA has promoted or hindered the free speech phenomenon. Questionnaire used to measure the constructs is given below:

**Table-4.3.1.** Adapted questionnaire for survey

Construct	Adapted statements	Source
Censorship nature of certain provisions of PECA (CCPP)	PECA-2016 provides for official or unofficial censorship	-
	PECA is vaguely worded law applies to internet-related or ICT activities.	-
	PECA-2016 provides to block or filter internet and other ICT content, particularly on political, religious and social issues.	-
	PECA-2016 are used to order the deletion of content from the internet, either prior to or after its publication	-
	Under PECA-2016 government put pressure on online users to exclude certain information from their reporting.	-
	Access providers and content hosts are legally liable under PECA for the information transmitted via the technology they supply	-
		-
	PECA-2016, a citizen can be arrested for mere criticizing government acts without a probable cause	-
	Government agents intercept electronic communication without judicial authorization under PECA-2016	-
	A citizen can be arrested by FIA under PECA without justification for supporting a view on internet against government acts.	-
	Under PECA-2016, PTA is sole regulator of cyber space.	-
	A journalist can be arrested without justification for uploading and sharing his/her views on social media under PECA-2016	-
	PECA-2016 provides for state surveillance of internet and ICT activities without judicial oversight, including systematic retention of user traffic data	-
		-
Effect on free speech (EFS)	I enjoy free speech on internet in Pakistan	Vásquez and Porčnik (2015)
	Free speech doctrine is under threat under PECA	-
	Human rights organizations enjoy free speech online in Pakistan	-
	I freely express opinions on internet against govt. Acts	-
	Access to official or unofficial sources are controlled under PECA.	-
	Bloggers, ICT users, websites are subject to extra-legal intimidation due to PECA	-
	Online journalists and bloggers have left their job due to narrow nature of PECA	-

#### 4.3.2. Pre Test

The purpose of pre-test in this study is to ensure the content validity and face validity of the questionnaire. The content validity is assigned to experts in order to ensure the comprehensiveness of measuring instrument, quality of the survey (Saunders *et al.*, 2009). A panel of four experts two from law officers and two from academia were asked to judge the content validity. Questionnaire was revised according to the comments.

#### 4.3.3. Demographic Variables

This section provides the complete detail regarding to respondents gender, academic qualification, profession, religion and specialized area.

There were about 54 percent of male respondents while remaining 46 percent were females. Demographic description depicts that 35.5% of the respondents were pertaining the first degree qualification, 35% were having master's degree, 19.2 were Ph.D. doctors and 10.3 were having other degrees. For the current study experts were approached who belong to different professions of law like, few of them were law students and judges, some of them were journalists and most of the respondents were law teachers. The percentage distribution shows that maximum percentage of respondents were of lawyers which was 32%. Demographic distribution regarding to religion of respondents show that, most of the survey participants were Muslims and very few were in minority. 27.7% of participants were associated to cyber law, 16.8 were expert in civil law and 28.4% were criminal law experts.

#### 4.3.4. Reliability Analysis of Questionnaire

In order to test the reliability of questionnaire Chron Bach alpha value was used that showed 5that how much each variable is reliable and the overall reliability of the whole instrument has also been tested.

**Table-4.3.4.** Reliability Analysis

Construct	Questions/Items	Alpha Values
Censorship nature of certain provisions of PECA	12	0.945
Effect on free speech	7	.836
OVERALL	19	.848

The reliability of the questionnaire is measured by Cronbach's coefficient alpha ( $\alpha$ ). The results from the study show a Cronbach's  $\alpha$  score of each variable. There are total 2 variables (constructs) included in the present study to address the objectives of study by using qualitative and quantitative mode. Reliability of first variable (construct), censorship nature of certain provisions of PECA has been measured through 12 items and shows enough reliability with alpha value at 0.945 level. Effect on free speech shows the reliability value of 0.836. Table 4.3.4 also shows the overall reliability of the whole construct which is 0.848. Result shows sufficient internal consistency of an instrument as all the alpha values are greater than acceptable value of 0.70 (cut-off criteria).

#### 4.3.5. Descriptive Statistics

Descriptive statistics i-e mean values and standard deviation of each question regarding to censor nature of the certain provisions of PECA, is given in the Table 4.3.5

**Table-4.3.5.** Descriptive statistics of Censorship nature of certain provisions of PECA

Items	Minimum	Maximum	Mean	Std. Deviation
CCPP01	1	4	3.68	.678
CCPP02	2	5	3.89	1.196
CCPP03	2	5	4.20	1.165
CCPP04	2	5	4.02	1.162
CCPP05	2	5	4.11	1.206
CCPP06	2	5	4.06	1.166
CCPP07	2	5	4.02	1.199
CCPP08	2	5	3.96	1.142
CCPP09	1	5	2.53	1.497
CCPP10	2	5	4.06	1.097
CCPP11	2	5	4.00	1.136
CCPP12	2	5	3.99	1.125
Valid N (listwise)				

All the mean values are above neutral and most of them are near to 4 showing that responses on Likert scale are towards agree. This implies that most of the respondents are agreeing with the statements which show certain provisions of PECA are of censorship nature and suppressing the freedom of speech. And the standard deviation values show that data is less deviated from the mean.

**Table-4.3.6.** Descriptive Statistics effect on Free speech

Items	Minimum	Maximum	Mean	Std. Deviation
EFS13	1	5	3.82	1.435
EFS14	1	5	3.64	1.428
EFS15	2	5	4.11	1.103
EFS16	1	5	2.27	1.427
EFS17	2	5	3.92	1.174
EFS18	1	5	3.85	1.381
EFS19	2	5	3.95	1.300
Valid N (listwise)				



Above table shows the mean and standard deviation of all the questions regarding to the construct effect on “free speech”. There are mixed statements (positive and negative) in order to measure the response about free speech violation. Most of the mean values against positive statement are towards disagree and the responses against negative statement are towards agree, which depicts that there is a violation of free speech on internet in Pakistan. Standard deviation against each question is also calculated, which shows less deviation.

#### 4.3.6. Frequency and Percentage Distribution

Frequency and percentage distribution represent the level of agreement and satisfactions about the asked items/questions respectively. The table 4.3.7 shows the frequency and percentage distribution of questions asked related to censorship nature of PECA-2016 provisions which indicates the level of agreement or disagreement.

**Table-4.3.7.** Frequency and percentage distribution of Censorship nature of PECA

Items	Strongly disagree	Disagree	Neutral	Agree	Strongly agree
	Frequency (%)	Frequency (%)	Frequency (%)	Frequency (%)	Frequency (%)
CCPP01	Nil	1(.5%)	85 (42.3%)	91 (45.3%)	23 (11.4%)
CCPP02	Nil	44 (21.9)	22 (10.9)	45 (22.4)	89 (44.3)
CCPP03	Nil	39 (19.4)	2 (1.0)	39 (19.4)	120 (59.7)
CCPP04	Nil	34 (16.9)	30 (14.9)	33(16.4)	103 (51.2)
CCPP05	Nil	33 (16.4)	36 (17.9)	7 (3.5)	124 (61.7)
CCPP06	Nil	36 (17.9)	22 (10.9)	37 (18.4)	105 (52.2)
CCPP07	Nil	37(18.4)	30 (14.9)	25 (12.4)	108 (53.7)
CCPP08	Nil	38 (18.9)	20 (10.0)	54 (26.9)	88 (43.8)
CCPP09	83 (41.3)	20 (10.0)	30 (14.9)	43 (21.4)	24 (11.9)
CCPP10	Nil	38 (18.9)	Nil	74 (36.8)	88 (43.8)
CCPP11	Nil	37(18.4)	18 (9.0)	54 (26.9)	91 (45.3)
CCPP12	Nil	35 (17.4)	22 (10.9)	53 (26.4)	90 (44.8)

CCPP stands for “censorship nature of certain PECA provisions”. Censorship means the suppression or prohibition of any parts of books, films, news, etc. On social media or any medium of communication that are considered obscene, or politically unacceptable without any reasonable justifications. Total of 12 questions were asked from CCPP01 to CCPP12. The respondents were asked about their level of agreement or disagreement from CCPP01 to CCPP12. The respondents include lawyers, academicians, journalists and law officers.

They are CCPP01(PECA-2016 provides for official or unofficial censorship), CCPP02 (PECA is vaguely worded law applies to internet-related or ICT activities.), CCPP03 (PECA-2016 provides to block or filter internet and other ICT content, particularly on political, religious and social issues.), CCPP04 (PECA-2016 are used to order the deletion of content from the internet, either prior to or after its publication), CCPP05 (Under PECA-2016 government put pressure on online users to exclude certain information from their reporting.), CCPP06 (Access providers and content hosts are legally liable under PECA for the information transmitted via the technology they supply), CCPP07(PECA-2016, a citizen can be arrested for mere criticizing government acts without a probable cause), CCPP08 (Government agents intercept electronic communication without judicial authorization under PECA-2016), CCPP09 (A citizen can be arrested by FIA under PECA without justification for supporting a view on internet against government acts.), CCPP10 (Under PECA-2016, PTA is sole regulator of cyber space.), CCPP11 (A journalist can be arrested without justification for uploading and sharing his/her views on social media under PECA-2016), CCPP12 (PECA-2016 provides for state surveillance of internet and ICT activities without judicial oversight, including systematic retention of user traffic data)

#### 4.3.7. Responses with Highest Level

Analysis of table 4.3.8 shows that the questions asked from CCPP01 to CCPP12 were related to the censorship nature of PECA provisions. Majority of the respondents have shown agreement and strongly agreed that certain provisions of PECA-2016 are fatal for the practice of speech on internet. This depicts that in fact there are certain provisions under PECA which are used for the suppression of online content with discretion of governmental authority without any legal justifications. Hence this proves that there are some provisions in PECA which has vehemently silenced the voices of bloggers, journalists and social media activists. This aspect has supported the stance of researcher that implementation of PECA-2016 is the abolition of freedom of speech on internet.

**Table-4.3.8.** Frequency and percentage distribution of Effect on Free speech

	Strongly disagree	Disagree	Neutral	Agree	Strongly agree
	Frequency (%)	Frequency (%)	Frequency (%)	Frequency (%)	Frequency (%)
EFS13	19 (9.5)	37 (18.4)	Nil	48 (23.9)	95 (47.3)
EFS14	18 (9.0)	37 (18.4)	31 (18.4)	25 (12.4)	88 (43.8)
EFS15	Nil	37 (18.4)	Nil	67 (33.3)	95 (47.3)
EFS16	98 (48.8)	13 (6.5)	44 (21.9)	24(11.9)	20 (10.0)
EFS17	Nil	43 (21.4)	16 (8.0)	54 (36.9)	86 (42.8)
EFS18	21 (10.4)	21 (10.4)	17 (8.5)	48 (23.9)	92 (45.8)
EFS19	Nil	52 (25.9)	16(8.0)	20 (10.0)	111 (55.2)

EFS stands for “effect on free speech”. Total of 7 were asked from EFS13 to EFS19. The respondents were asked about their level of agreement or disagreement from EFS39 to EFS50. From the 7 statements, 5 shows similar responses from lawyers, academicians, law officers and journalists.

They are EFS13(I enjoy free speech on internet in Pakistan), EFS14 (Free speech doctrine is under threat under PECA), EFS15 (Human rights organizations enjoy free speech online in Pakistan),EFS16 (I freely express opinions on internet against govt. Acts), EFS 17(Access to official or unofficial sources are controlled under PECA.), EFS18 (Bloggers, ICT users, websites are subject to extra-legal intimidation due to PECA), EFS 19(Online journalists and bloggers have left their job due to narrow nature of PECA).

#### 4.3.8. Responses with Highest Level

Analysis of table 4.3.8 shows that the questions asked from EFS13 to EFS19 were related to the effect on free speech of PECA provisions. Majority of the respondents have shown agreement and neutral response. This depicts that in fact since the enactment of PECA, free speech violation has been legalized by the Parliament. The crux of the majority questions were related that PECA criminalizes online free speech and remove online content without any justifications. Due to PECA, certain bloggers and social media activists have reduced their activities which means PECA provision to a greater extent poses threat to free speech practice in Pakistan. These findings are in line with past findings which supports that enactment of PECA has suppressed the freedom of speech in Pakistan.

#### 4.3.9. Correlation Analysis

In the table 4.3.9, the correlation analysis has been done, which shows the relationship between two variables censorship and free speech.

**Table-4.3.9.** Correlations

		censorship	Free speech
censorship	Pearson Correlation	1	.947**
	Sig. (2-tailed)		.000
	N	200	199
Free speech	Pearson Correlation	.947**	1
	Sig. (2-tailed)	.000	
	N	199	199

\*\* . Correlation is significant at the 0.01 level (2-tailed).

Results depicted that censorship nature of provision of PECA is significantly related to free speech violation and the relationship is significant at 0.01 level. The strength of relationship is quite strong as correlation value is 0.947.

#### 4.3.10. Regression Analysis

In this study, we have applied a regression analysis in order to test the impact of PECA provisions on freedom of speech.

**Table-4.3.10.** Regression

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.947 <sup>a</sup>	.896	.896	.25172

a. Predictors: (Constant), free speech

R square value shows that 89% change in dependent variable free speech violation is because of change in independent variable provisions of PECA.

Beta value of 0.762 shows a substantial amount of variance, depicts that 1% change in provision of PECA will cause 76% change in free speech violation and the relationship is positive. P value is also significant as 0.00.

**Table-4.3.11.** Coefficients

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.
		B	Std. Error	Beta		
1	(Constant)	.762	.072		3.395	.000
	Free speech	.718	.017	.947	41.272	.000

a. Dependent Variable: censorship

The overall analysis of regression depicted that, there is a positive relationship between censorship nature of PECA provisions and violation of free speech. With the increase (enforcement) of censorship nature of PECA provisions, free speech violation also increases.

#### 4.4 Comparison of Qualitative and Quantitative Findings

The table 4.4 shows an overview and comparison of both findings quantitative and qualitative for the impact of PECA provisions on free speech violation. Both results show that provisions of PECA-2016 has significantly violated the freedom of speech on internet in Pakistan. Hence this study showed that like offline freedom of speech shown by the past literature, online freedom of speech is also at stake.

**Table-4.4.** Comparison of quantitative and qualitative findings

Construct	Quantitative	Qualitative
Censorship nature of certain PECA provisions	Certain provisions of PECA has significant relation to free speech violation in Pakistan	In Islamabad, the lawyers, academicians and law officers showed great concerns about strict nature of PECA as it has minimized the level of expression on internet in form of blocking or deleting of content without any judicial or legal process
Provisions of arbitrary powers	Certain provision, due to its ambiguous nature has given unbridled power to authorities	Participants witnessed and supported with cases that PTA and FIA are acting arbitrarily under the shadow of PECA.
Effect on free speech	Free speech violation instances increases with censorship nature of PECA provisions	Participant discussions revealed that many bloggers and journalist experience self-censorship since the enactment of PECA.

#### 5. Conclusion

This chapter investigated the effect of certain provisions of PECA on free speech on internet in Pakistan. A mix method approach was utilized in order to achieve the objectives of the study. The quantitative data was collected from 201 respondents in capital city of Pakistan better called as Islamabad. SPSS software was used for the analysis of data. SPSS was utilized for data screening and further analysis. Analysis includes demographic statistics, descriptive statistics, and correlation and regression analysis. The correlation and regression analysis for impact of PECA provisions on freedom of speech shows that there is significant and positive relation between certain provisions of PECA with free speech violation. The censorship nature of PECA provisions increases the free speech violation in Pakistan.

For qualitative phase, qualitative data was collected from 15 participants from capital city of Islamabad. Interviews were transcribed and coded in NVivo. After coding them, they were analyzed on the basis of coding. The themes derived from the discussion from the interviewees reveal that the certain provisions including section 3,4,11 and 37 has affected the way of expression on social media. As these provisions are very subjective to interpretation, hence they have greater impact on free speech violation in Pakistan.

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